

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 722

97TH GENERAL ASSEMBLY

1813S.04T

2013

AN ACT

To repeal sections 86.200, 86.257, and 86.263, RSMo, and to enact in lieu thereof three new sections relating to police retirement.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 86.200, 86.257, and 86.263, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 86.200, 86.257, and 86.263, to read as follows:

86.200. The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all mandatory contributions deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) "Average final compensation":

(a) With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(b) With respect to a member who is not participating in the DROP pursuant to section 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date,

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 and who earns any creditable service on or after October 1, 2001, the average earnable
16 compensation of the member during the member's last two years of creditable service as a
17 policeman, or if the member has had less than two years of creditable service, then the average
18 earnable compensation of the member's entire period of creditable service;

19 (c) With respect to a member who is participating in the DROP pursuant to section
20 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns
21 to active participation in the system pursuant to section 86.251, and who terminates employment
22 as a police officer for reasons other than death or disability before earning at least two years of
23 creditable service after such return, the portion of the member's benefit attributable to creditable
24 service earned before DROP entry shall be determined using average final compensation as
25 defined in paragraph (a) of this subdivision; and the portion of the member's benefit attributable
26 to creditable service earned after return to active participation in the system shall be determined
27 using average final compensation as defined in paragraph (b) of this subdivision;

28 (d) With respect to a member who is participating in the DROP pursuant to section
29 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who
30 returns to active participation in the system pursuant to section 86.251, and who terminates
31 employment as a police officer after earning at least two years of creditable service after such
32 return, the member's benefit attributable to all of such member's creditable service shall be
33 determined using the member's average final compensation as defined in paragraph (b) of this
34 subdivision;

35 (e) With respect to a member who is participating in the DROP pursuant to section
36 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns
37 to active participation in the system pursuant to section 86.251, and whose employment as a
38 police officer terminates due to death or disability after such return, the member's benefit
39 attributable to all of such member's creditable service shall be determined using the member's
40 average final compensation as defined in paragraph (b) of this subdivision; and

41 (f) With respect to the surviving spouse or surviving dependent child of a member who
42 earns any creditable service on or after October 1, 2001, the average earnable compensation of
43 the member during the member's last two years of creditable service as a police officer or, if the
44 member has had less than two years of creditable service, the average earnable compensation of
45 the member's entire period of creditable service;

46 (4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

47 (5) "Board of police commissioners", any board of police commissioners, police
48 commissioners and any other officials or boards now or hereafter authorized by law to employ
49 and manage a permanent police force in such cities;

50 (6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer
51 the retirement system;

52 (7) "Creditable service", prior service plus membership service as provided in sections
53 86.200 to 86.366;

54 (8) "DROP", the deferred retirement option plan provided for in section 86.251;

55 (9) "Earnable compensation", the annual salary **established under section 84.160** which
56 a member would earn during one year on the basis of the member's rank or position [as specified
57 in the applicable salary matrix] plus any additional compensation for academic work and shift
58 differential that may be provided by any official or board now or hereafter authorized by law to
59 employ and manage a permanent police force in such cities. Such amount shall include the
60 member's deferrals to a deferred compensation plan pursuant to Section 457 of the Internal
61 Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code or,
62 effective October 1, 2001, to a transportation fringe benefit program pursuant to Section
63 132(f)(4) of the Internal Revenue Code. Earnable compensation shall not include a member's
64 additional compensation for overtime, standby time, court time, nonuniform time or unused
65 vacation time. Notwithstanding the foregoing, the earnable compensation taken into account
66 under the plan established pursuant to sections 86.200 to 86.366 with respect to a member who
67 is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after
68 October 1, 1996, shall not exceed the amount of compensation that may be taken into account
69 under Section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of
70 living, for such plan year. For purposes of this subdivision, a "noneligible participant" is an
71 individual who first becomes a member on or after the first day of the first plan year beginning
72 after the earlier of:

73 (a) The last day of the plan year that includes August 28, 1995; or

74 (b) December 31, 1995;

75 (10) "Internal Revenue Code", the federal Internal Revenue Code of 1986, as amended;

76 (11) "Mandatory contributions", the contributions required to be deducted from the
77 salary of each member who is not participating in DROP in accordance with section 86.320;

78 (12) **"Medical board", the board of three physicians of different disciplines**
79 **appointed by the trustees of the police retirement board and responsible for arranging and**
80 **passing upon all medical examinations required under the provisions of sections 86.200 to**
81 **86.366, which board shall investigate all essential statements and certificates made by or**
82 **on behalf of a member in connection with an application for disability retirement and shall**
83 **report in writing to the board of trustees its conclusions and recommendations, which can**
84 **be based upon the opinion of a single member or that of an outside specialist if one is**
85 **appointed, upon all the matters referred to such medical board;**

86 **(13)** "Member", a member of the retirement system as defined by sections 86.200 to
87 86.366;

88 [(13)] **(14)** "Members' interest", interest on accumulated contributions at such rate as
89 may be set from time to time by the board of trustees;

90 [(14)] **(15)** "Membership service", service as a policeman rendered since last becoming
91 a member, except in the case of a member who has served in the armed forces of the United
92 States and has subsequently been reinstated as a policeman, in which case "membership service"
93 means service as a policeman rendered since last becoming a member prior to entering such
94 armed service;

95 [(15)] **(16)** "Plan year" or "limitation year", the twelve consecutive-month period
96 beginning each October first and ending each September thirtieth;

97 [(16)] **(17)** "Policeman" or "police officer", any member of the police force of such cities
98 who holds a rank in such police force;

99 [(17)] **(18)** "Prior service", all service as a policeman rendered prior to the date the
100 system becomes operative or prior to membership service which is creditable in accordance with
101 the provisions of sections 86.200 to 86.366;

102 [(18)] **(19)** "Reserve officer", any member of the police reserve force of such cities,
103 armed or unarmed, who works less than full time, without compensation, and who, by his or her
104 assigned function or as implied by his or her uniform, performs duties associated with those of
105 a police officer and who currently receives a service retirement as provided by sections 86.200
106 to 86.366;

107 [(19)] **(20)** "Retirement allowance", annual payments for life as provided by sections
108 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu
109 thereof granted to a member upon termination of employment as a police officer and actual
110 retirement;

111 [(20)] **(21)** "Retirement system", the police retirement system of the cities as defined in
112 sections 86.200 to 86.366;

113 [(21)] **(22)** "Surviving spouse", the surviving spouse of a member who was the
114 member's spouse at the time of the member's death.

86.257. 1. Upon the application of [a member in service or of] the board of police
2 commissioners **or any successor body**, any member who has completed ten or more years of
3 creditable service **or upon the police retirement system created by sections 86.200 to 86.366**
4 **first attaining, after the effective date of this act, a funded ratio, as defined in section**
5 **105.660 and as determined by the system's annual actuarial valuation, of at least eighty**
6 **percent, a member who has completed five or more years of creditable service** and who has
7 become permanently unable to perform the duties of a police officer as the result of an injury or

8 illness not exclusively caused or induced by the actual performance of his or her official duties
9 or by his or her own negligence shall be retired by the board of [trustees of the police retirement
10 system] **police commissioners or any successor body** upon certification by the medical
11 [director] **board** of the police retirement system and approval by the board of trustees of the
12 police retirement system that the member is mentally or physically unable to perform the duties
13 of a police officer, that the inability is permanent or likely to become permanent, and that the
14 member should be retired.

15 2. Once each year during the first five years following such member's retirement, and at
16 least once in every three-year period thereafter, the board of trustees may, and upon the member's
17 application shall, require any nonduty disability beneficiary who has not yet attained sixty years
18 of age to undergo a medical examination at a place designated by the medical [director] **board**
19 or such physicians as the medical [director] **board** appoints. If any nonduty disability
20 beneficiary who has not attained sixty years of age refuses to submit to a medical examination,
21 his or her nonduty disability pension may be discontinued until his or her withdrawal of such
22 refusal, and if his or her refusal continues for one year, all rights in and to such pension may be
23 revoked by the board of trustees.

24 3. If the medical [director] **board** certifies to the board of trustees that a nonduty
25 disability beneficiary is able to perform the duties of a police officer, and if the board of trustees
26 concurs on the report, then such beneficiary's nonduty disability pension shall cease.

27 4. If upon cessation of a disability pension under subsection 3 of this section, the former
28 disability beneficiary is restored to active service, he or she shall again become a member, and
29 he or she shall contribute thereafter at the same rate as other members. Upon his or her
30 subsequent retirement, he or she shall be credited with all of his or her active retirement, but not
31 including any time during which the former disability beneficiary received a disability pension
32 under this section.

86.263. 1. Any member **in active service** who is permanently unable to perform the **full**
2 **and unrestricted** duties of a police officer as the natural, proximate, and exclusive result of an
3 accident occurring within the actual performance of duty at some definite time and place, through
4 no negligence on the member's part, shall[, upon application,] be retired **by the board of police**
5 **commissioners or any successor body** upon certification by [the medical director of the police
6 retirement system and approval by the board of trustees of the police retirement system] **one or**
7 **more physicians of the medical board** that the member is mentally or physically unable to
8 perform the **full and unrestricted** duties of a police officer [and] , that the inability is permanent
9 or [reasonably] likely to become permanent, **and that the member should be retired. The**
10 **inability to perform the "full and unrestricted duties of a police officer" means the member**

11 **is unable to perform all the essential job functions for the position of police officer as**
12 **established by the board of police commissioners or any successor body.**

13 2. No member shall be approved for retirement under the provisions of subsection 1 of
14 this section unless the application was made and submitted to the board of [trustees of the police
15 retirement system] **police commissioners or any successor body** no later than five years
16 following the date of accident, provided, that if the accident was reported within five years of the
17 date of the accident and an examination made of the member within thirty days of the date of
18 accident by a health care provider whose services were provided through the board of police
19 commissioners with subsequent examinations made as requested, then an application made more
20 than five years following the date of the accident shall be considered timely.

21 3. Once each year during the first five years following a member's retirement, and at least
22 once in every three-year period thereafter, the board of trustees may require any disability
23 beneficiary who has not yet attained sixty years of age to undergo a medical examination or
24 medical examinations at a place designated by the medical [director] **board** or such physicians
25 as the medical [director] **board** appoints. If any disability beneficiary who has not attained sixty
26 years of age refuses to submit to a medical examination, his or her disability pension may be
27 discontinued **by the board of trustees of the police retirement system** until his or her
28 withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to
29 such pension may be revoked by the board of trustees.

30 4. If the medical [director] **board** certifies to the board of trustees that a disability
31 beneficiary is able to perform the duties of a police officer, [and if the board of trustees concurs
32 with the medical director's determination,] then such beneficiary's disability pension shall cease.

33 5. If upon cessation of a disability pension under subsection 4 of this section, the former
34 disability beneficiary is restored to active service, he or she shall again become a member, and
35 he or she shall contribute thereafter at the same rate as other members. Upon his or her
36 subsequent retirement, he or she shall be credited with all of his or her active service time as a
37 member including the service time prior to receiving disability retirement, but not including any
38 time during which the former disability beneficiary received a disability pension under this
39 section.

40 6. If upon cessation of a disability pension under subsection 4 of this section, the former
41 disability beneficiary is not restored to active service, such former disability beneficiary shall be
42 entitled to the retirement benefit to which such former disability beneficiary would have been
43 entitled if such former disability beneficiary had terminated service for any reason other than
44 dishonesty or being convicted of a felony at the time of such cessation of such former disability
45 beneficiary's disability pension. For purposes of such retirement benefits, such former disability
46 beneficiary shall be credited with all of the former disability beneficiary's active service time as

47 a member, but not including any time during which the former disability beneficiary received a
48 disability beneficiary pension under this section.

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